

# United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Samuel Der-Yeghiayan	Sitting Judge if Other than Assigned Judge	
<b>CASE NUMBER</b>	10 C 968	<b>DATE</b>	9/13/2011
<b>CASE TITLE</b>	Santo Accurso vs. Michael J. Astrue		

## DOCKET ENTRY TEXT

For the reasons stated below, Plaintiff's motion for attorney's fees and costs [32] is granted. Plaintiff is awarded \$10,917.50 in fees and \$375.10 in costs for a total of \$11,292.60.

■ [ For further details see text below.]

Docketing to mail notices.

## STATEMENT

This matter is before the court on Plaintiff Santo Accurso's (Accurso) motion for attorneys' fees. On February 9, 2011, this court granted Accurso's motion for summary judgment and remanded this action for further proceedings consistent with this court's opinion. Accurso seeks to recover fees and costs totaling \$11,292.60. Pursuant to 28 U.S.C. § 2412(d)(1), "[e]xcept as otherwise specifically provided by statute, a court shall award to a prevailing party other than the United States fees and other expenses, in addition to any costs awarded pursuant to subsection (a), incurred by that party in any civil action (other than cases sounding in tort), including proceedings for judicial review of agency action, brought by or against the United States in any court having jurisdiction of that action, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust." *Id.*

Defendant concedes that Accurso is entitled to recover fees and costs as the prevailing party but contends that the amount requested is excessive. (Ans. 1). Defendant argues that Accurso's memorandum in support of his motion for summary judgment was prepared by an attorney who was recently hired at the law firm that represented Accurso and who is not familiar with the preparation of such memorandums.

Defendant argues that excessive hours were required to prepare the memorandum and that it should not be

## STATEMENT

required to pay for the training of Accurso's attorneys. Accurso argues that the total amount requested is comparable to Social Security cases such as the instant action. Accurso contends that the new attorney that primarily worked on the memorandum did some reading and studying on his own before beginning the preparation of the memorandum and was assisted by a more experienced counsel in preparing the memorandum.

Based on the record in this particular proceeding and the issues before the court, Accurso has shown that the hours spent in the preparation of the memorandum in support of the motion for summary judgment were reasonable. Defendant is correct that Accurso's counsel cannot pass on to Defendant the costs associated with the learning process by inexperienced counsel. However, the amount of time spent on the memorandum was within the scope of a reasonable amount of time for a competent counsel. Therefore, the motion for attorneys' fees is granted. Accurso is awarded \$10,917.50 in fees and \$375.10 in costs for a total of \$11,292.60.